

Serial No.: 10/010,965

Docket No.: KCC-16,986

Response dated 19 May 2004

Reply to Office Action mailed 19 March 2004

### **REMARKS**

This application has been reconsidered carefully in light of the final Office Action dated as mailed on 19 March 2004. A careful reconsideration of the application by the Examiner in light of the following remarks is respectfully requested.

This response is timely filed as it is filed within the three (3) month shortened statutory period for response to the outstanding Office Action. Further, as this response is hereby filed within two (2) months of the mailing date of the outstanding Office Action, it is understood that the shortened statutory period will expire on the date the advisory action is mailed should such advisory action not be mailed until after the end of the three-month shortened statutory period.

The Notice of Draftsperson's Patent Drawing Review, PTO-948 has been noted. New drawings in accordance therewith will be submitted at such time as the application has been indicated as in condition for allowance.

### **Claim Rejections - 35 U.S.C. § 102**

The Examiner rejected Claims 1, 8 and 40-43 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,622,589 ("Johnson et al."). This rejection is respectfully traversed, particularly in view of the above Amendment and the following remarks.

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The present invention is directed to an absorbent article having side seams which include a front ear passively bonded to a back ear. The front ear is made of a first material having a first basis weight and the back ear is made of a second material different from the first material and having a second basis weight greater than the first basis weight. As set forth in Applicants' specification at page 7, lines 6-19, bonding two dissimilar materials at the side seam, for example a front ear and a back ear, using passive bonds allows the front ear to tear more easily than the back ear. The pant-like, refastenable disposable absorbent article of the present invention includes side seams which include a front ear passively bonded to a back ear, wherein the front ear is releasable from the back ear without tearing or damaging the back ear more than the front ear and, most preferably, not damaging the back ear or negatively affecting its tensile strength.

Independent Claim 1 requires the limitations of *a second ear panel formed of a second material different from the first material extending from a first edge portion of the back waist region, the second material having a basis weight greater than a basis weight of the first material; and at least one manually tearable passive bond connecting the first ear panel and the second ear panel together.*

For a reference to anticipate a claim, the reference must teach each and every element or limitation of the claim. Johnson et al. does not teach each and every

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element or limitation of independent Claim 1. As set forth at Col. 5, lines 22-63, Johnson et al. discloses a method for making a flangeless seam useful in disposable articles. As shown in Fig. 9A, a web 400 having longitudinal side edges 410 is processed into a disposable article 15 having first members 200 and second members 202 which are to be joined. Referring to Figs. 9A-9G, first members 200 and second members 202 are made from the same web 400 and, thus, comprise the same material, unlike the first ear panel and the second ear panel of Applicants' claimed invention.

The Examiner alleges that Johnson et al. discloses at Col. 7, line 60 through Col. 8, line 8 that the first member 200 and the second member 202 are different materials. Applicants respectfully disagree with the Examiner's reading of this paragraph. Johnson et al. discloses that a laminate 220 is formed comprising the second member 202, the proximal portion 210 and the distal portion 212 of the first member 200, and the barrier member 205. Further, Johnson et al. discloses that each material, i.e., the first member 200 and the second member 202, included in laminate 220 can each comprise a single layer material or a laminate material. However, the method disclosed at Col. 5, lines 22-63 and shown in Figs. 9A-9G, requires that the first member 200 and the second member 202 are made of the same web 400. Additionally, Johnson et al. does not disclose that the first member 200 and the second member 202 can have different basis weights. Rather, Johnson et al. teaches using

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a barrier member 205 positioned between the materials that will tear with less force than is needed to separate the bonds connecting the barrier member to the proximal portion and the distal portion.

Thus, Johnson et al. does not disclose a second ear panel formed of a second material different from the first material wherein the second material has a basis weight greater than a basis weight of the first material. Further, Johnson et al. does not teach at least one tearable passive bond connecting the first ear panel and the second ear panel together, as required by Applicants' claimed invention. Although Johnson et al. mentions that the materials included in the laminate 220 may comprise single layer materials or laminates, Johnson et al. does not disclose that the second material is different than the first material and does not disclose that the materials may have different basis weights, with the second material having a basis weight greater than a basis weight of the first material. Further, Johnson et al. does not teach using a manually tearable passive bond to connect the two materials.

For at least the reasons presented above, Applicants respectfully submit that amended independent Claim 1 is not anticipated by Johnson et al. Because Claims 2-8 depend from amended independent Claim 1, these claims are also not anticipated by Johnson et al. Applicants respectfully request withdrawal of this rejection.

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### **Claim Rejections - 35 U.S.C. § 103**

The Examiner rejected Claims 2-7 under 35 U.S.C. § 103(a) as being unpatentable over Johnson et al. This rejection is respectfully traversed.

Claims 2-7 depend from independent Claim 1, which Applicants believe is patentable for at least the reasons presented above. Applicants respectfully request withdrawal of this rejection.

The Examiner rejected Claims 9-12 under 35 U.S.C. § 103(a) as being obvious over Johnson et al. in view of U.S. Patent 6,036,805 ("McNichols") and, thus, also U.S. Patent 5,226,992 ("Morman"). This rejection is respectfully traversed.

Claims 9-12 depend from independent Claim 1, which Applicants believe is patentable for at least the reasons presented above. Applicants respectfully request withdrawal of this rejection.

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**Conclusion**

It is believed that the above Amendment places all pending claims in condition for allowance and notification to that effect is solicited. However, should the Examiner detect any remaining issue or have any question, the Examiner is kindly requested to contact the undersigned, preferably by telephone, in an effort to expedite examination of the application.

Respectfully submitted,



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